

AMENDED IN SENATE JANUARY 5, 2006

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 520

Introduced by Senator Ashburn

February 18, 2005

An act to amend ~~Sections 654.3, 707, and 791~~ *Section 790* of the Welfare and Institutions Code, relating to juvenile crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 520, as amended, Ashburn. Juvenile crime.

~~(1) Existing law, enacted by initiative statute, generally excludes certain minors who have been alleged to have engaged in certain crimes, including, among others, specified violent crimes, controlled substance-related crimes, and criminal street gang crimes, from eligibility for specified supervision programs conducted within the jurisdiction of the juvenile court. The initiative statute provides that any amendment of its provisions requires a 2/3 vote of the membership of each house of the Legislature.~~

~~This bill would prohibit minors who have been alleged to have committed a felony sexual assault, as defined, from being eligible for supervision programs.~~

~~(2) Existing law establishes the criteria by which the juvenile court may find that specified minors, including a person who has committed one of specified violent offenses when he or she was 16 years of age or older, 2 or more felony offenses under certain circumstances, or specified violent offenses at 14 years of age or older, are unfit for treatment in juvenile court.~~

~~This bill would lower the age at which certain persons are to be deemed unfit for treatment in juvenile court from 16 to 14 years of age or older for various violent crimes including, among others, murder,~~

arson, robbery, rape, sodomy, lewd and lascivious acts, oral copulation, kidnapping, attempted murder, and specified assaults. The bill would also make technical, nonsubstantive changes to those provisions.

(3) Existing juvenile law, enacted by initiative statute, provides that if a minor consents and waives his or her right to a speedy jurisdictional hearing, the court may refer the case to the probation department or summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of the judgment. Existing law further specifies that when directed by the court, the probation department is required to make an investigation and take into consideration various factors, including any other mitigating and aggravating factors in determining whether the minor is a person who would be benefited by education, treatment, or rehabilitation. This provision does not apply if the minor has committed any one of various, specified serious or violent offenses.

This bill would specify that mitigating and aggravating factors, as used in those provisions, include factors relating to the offense expand the list of offenses which would make a minor ineligible for the program described above. Because the bill would amend an initiative statute, it would require a 2/3 vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 790 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 790. (a) Notwithstanding Sections 654, 654.2, or any other
- 4 provision of law, this article shall apply whenever a case is
- 5 before the juvenile court for a determination of whether a minor
- 6 is a person described in Section 602 because of the commission
- 7 of a felony offense, if all of the following circumstances apply:
- 8 (1) The minor has not previously been declared to be a ward of
- 9 the court for the commission of a felony offense.
- 10 (2) The offense charged is not one of the offenses enumerated
- 11 in subdivision (b) of Section 707: or any of the following
- 12 offenses:

1 (A) The offense described in paragraph (1), (3), (4), (5), (6),
2 or (7) of subdivision (a) of Section 261 of the Penal Code.

3 (B) The offense described in Section 264.1 or 285 of the Penal
4 Code.

5 (C) The offense described in paragraph (1) or (3) of
6 subdivision (c) or subdivision (f), (g), (h), (i), (j), or (k) of Section
7 286 of the Penal Code.

8 (D) The offense described in subdivision (a) or paragraph (1)
9 or (2) of subdivision (b) of Section 288 of the Penal Code.

10 (E) The offense described in paragraph (1) or (3) of
11 subdivision (c), or subdivision (d), (f), (g), (h), (i), (j), or (k) of
12 Section 288a of the Penal Code.

13 (F) The offense described in subdivision (b), (c), (d), (e), (f),
14 (g), or (j) of Section 289 of the Penal Code.

15 (G) The offense described in Section 647.6 of the Penal Code.

16 (3) The minor has not previously been committed to the
17 custody of the ~~Youth Authority~~ Division of Juvenile Facilities.

18 (4) The minor's record does not indicate that probation has
19 ever been revoked without being completed.

20 (5) The minor is at least 14 years of age at the time of the
21 hearing.

22 (6) The minor is eligible for probation pursuant to Section
23 1203.06 of the Penal Code.

24 (b) The prosecuting attorney shall review his or her file to
25 determine whether or not paragraphs (1) to (6), inclusive, of
26 subdivision (a) apply. Upon the agreement of the prosecuting
27 attorney, the public defender or the minor's private defense
28 attorney, and the presiding judge of the juvenile court or a judge
29 designated by the presiding judge to the application of this
30 article, this procedure shall be completed as soon as possible
31 after the initial filing of the petition. If the prosecuting attorney,
32 the defense attorney, and the juvenile court judge do not agree,
33 the case shall proceed according to Article 17 (commencing with
34 Section 675). If the minor is found eligible for deferred entry of
35 judgment, the prosecuting attorney shall file a declaration in
36 writing with the court or state for the record the grounds upon
37 which the determination is based, and shall make this
38 information available to the minor and his or her attorney. Under
39 this procedure, the court may set the hearing for deferred entry of
40 judgment at the initial appearance under Section 657.

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**All matter omitted in this version of the bill
appears in the bill as amended in Senate,
April 4, 2005 (JR11)**

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